

Washington's
Endangered Children's Assessment
and Response

We Care

Recommended Best Practices
Addressing the Needs of
Drug Endangered Children

ENDORSED BY



WASHINGTON ASSOCIATION
OF SHERIFFS AND POLICE CHIEFS

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 landestine drug labs are a significant problem in Washington State. Department of Ecology responded to approximately 350 drug lab incidents in 1998 compared to nearly 1500 in 2003. Currently, Washington ranks sixth in the United States in the number of illegal methamphetamine labs identified by law enforcement. Since a considerable number of illegal labs operate within residential homes, children living in these residences are at particular risk. In response to this problem, the Governor's Methamphetamine Coordinating Committee appointed a Drug Endangered Children's (DEC) subcommittee to examine existing national and local DEC programs, research pertinent legal issues and identify best practices that address the children's needs. The subcommittee's work resulted in the development of the *We Care* Plan.

The Plan is applicable to situations where there is reason to believe that abuse and neglect of a child has occurred through exposure to controlled substances, or to chemicals and processes involved in manufacturing illegal drugs.

For a successful DEC program, three fundamental elements were identified:

- ▶ Collaboration amongst law enforcement (LE), Child Protective Services (CPS), medical facilities and prosecutors.
- ▶ On scene response by Child Protective Services or their designee
- ▶ Collection of urine samples from children within four hours of assuming custody.

The Plan includes six elements:

- 1 Agency Response Matrix
- 2 Law Enforcement Procedures
- 3 Child Protective Services Procedures
- 4 Medical Procedures
- 5 Prosecutor Procedures
- 6 Applicable Laws

The *We Care* Plan is intended to address the immediate needs of the drug-endangered child and does not detail the responsibilities of drug courts, treatment services, continuum of care and site remediation. These latter responsibilities are recognized as integral components, implemented after the child's immediate needs have been addressed. Documentation of successful approaches and guidance from prosecutors, social service agencies, and local health officers on these responsibilities would be useful for county DEC programs and teams.

The *We Care* Plan is offered as a tool to assist counties in responding to the needs of drug-endangered children. It was developed with the understanding that each county is unique and that specific regional needs and available resources will influence the type of response implemented.

Successful DEC programs already exist in some Washington counties. The *We Care* Plan is intended to facilitate the development of new DEC programs and complement existing ones.

The Agency Response Matrix

Multidisciplinary Drug Endangered Children's Team

Law Enforcement

- ▼
Assess Condition of Child
- ▼
Place Child in Protective Custody
- ▼
Collect Physical Evidence

Child Protective Services

- ▼
Accept Transfer of
Custody of Child
- ▼
Coordinate
Sample Collection
- ▼
Arrange for Decontamination
of Child
- ▼
Conduct Initial
Interview with Child
- ▼
Transport Child to
Appropriate Facility
- ▼
Conduct Placement
Assessment
- ▼
Court Makes Placement
Determination
- ▼
Continuum of Care

We Care

Medical



Emergency



Treat
Immediately



Non-Emergency



Collect Urine Sample



Conduct Medical Exam



Conduct EPSDT Exam*

Prosecutor



Review Evidence



No Criminal
Charges



Criminal
Charges

*EPSDT: EARLY PERIODIC SCREENING, DETECTION AND TREATMENT

Law Enforcement Response | Procedure

In the best interest of the child, sensitive and confidential information should be shared amongst interagency DEC team members. Law enforcement should notify Child Protective Services when there is reason to believe that a child has been exposed to controlled substances or illegal drug manufacturing activities or has been abused or neglected as a result of such activity.

- 1** Secure the scene and ensure the safety of initial responders and civilians present.
- 2** Contact **9-1-1** if a child has obvious injuries or illness.
- 3** Take child into protective custody and notify CPS to respond at the scene.
- 4** Transfer custody of the child to CPS.
 - a.** LE does not release child to family members or neighbors. CPS oversees placement of child.
 - b.** CPS attempts to locate and coordinate placement of children that are not on the premises.
- 5** Acquire warrant for collection of biological samples to be used as evidence for legal prosecution.
 - a.** Retrieve and submit samples to the Washington State Patrol's forensic laboratory.
- 6** Notify narcotic detectives who start the DEC investigation.
 - a.** Examine the scene for evidence that indicates the presence of children.
 - b.** Take measurements comparing the height and reach of the child in relation to the location of the lab items/equipment.
 - c.** Document and video or photograph the scene giving particular attention to the following risk factors:
 - i.** Children's accessibility to drugs, chemicals, syringes and drug paraphernalia
 - ii.** Proximity of hazards to children's play and sleep areas
 - iii.** Non-drug hazards and other indications of neglect
 - iv.** Access to pornography
 - v.** Access to weapons
 - vi.** Food quantity and quality
 - vii.** Sleeping conditions
 - viii.** Sanitary conditions
 - c.** Photograph the children at the scene and document the following:
 - i.** Injuries
 - ii.** Cleanliness and dress
 - iii.** Signs of neglect
 - d.** Interview neighbors, school officials and other witnesses.

Child Protective Service Response | Procedure

When there is reason to believe that abuse and neglect of a child has occurred as a result of illegal drug manufacturing activities or use, it is essential for Child Protective Services or their designee to:

- 1** Respond at the scene.
- 2** Accept transfer of custody of child:
 - a.** Attempt to locate and coordinate removal of children that are not on the premises.
- 3** Call referral into CPS office.
- 4** Coordinate collection of urine sample within 4 hours of accepting custody:
 - a.** Sample may be collected at a medical facility or in the field by specially trained professionals.
- 5** Arrange for decontamination of child:
 - a.** At the site, provide clean clothing and wash exposed skin, using either paper towels and soap and water or packaged pre-moistened wipes. Child is bathed at the receiving home.
- 6** Conduct initial interview with child:
 - a.** Forward appropriate reports to LE and prosecutor.
- 7** Transport child to receiving home or medical facility:
 - a.** Items from the drug lab site are left on site and not taken with the child.
 - b.** Transport vehicle should have disposable car seat covers and infant and child car seats.
- 8** Make placement assessment:
 - a.** Foster care vs. Relative care.
- 9** Court makes legal determination within 72 hours of assuming custody.
- 10** Receiving home arranges a medical exam through child's primary medical provider:
 - a.** Within 24 hours for child with suspected illness.
 - b.** Within 7-14 days for child who does not exhibit illness.

Medical Response | Procedure

- 1 Child is placed in protective custody by responding Law Enforcement (LE) officers.
- 2 Child with obvious injury, illness or respiratory distress is immediately transported to medical facility by calling 9-1-1.
- 3 Child with suspected illness receives medical exam within 24 hours of assuming custody. However, a urine sample is collected within 4 hours of assuming custody.
 - a. Medical exam is performed by the child's primary medical provider.
- 4 Child, who does not exhibit illness, receives medical exam within 7 to 14 days after assuming custody. However, a urine sample is collected within 4 hours of assuming custody.
 - a. Medical exam is performed by the child's primary medical provider.
- 5 Medical exam consists of:
 - a. Medical History: CPS assists by obtaining medical records and history from parents
 - b. Physical Exam: Attention to nutrition, dental decay, respiratory distress, brief developmental screen
 - c. Lab Tests as Needed: Consider Complete Blood Count (CBC)
- 6 Urine sample:
 - a. Collected within 4 hours of being placed in protective custody, at either a medical facility or in the field by specially trained professionals.
 - b. Obtained for either:
 - i. Child protection, safety and health reasons: No warrant required.
 - ii. Legal prosecution of caregivers: Warrant required, WSP forensic laboratory collection protocols and Police Evidence

System adhered to. Analysis conducted at the WSP forensic laboratory.

- c. Analyzed to detect and report the presence of illicit drugs at any level.
- 7 Early Periodic Screening, Detection and Treatment (EPSDT) exam conducted within 1 month of placement, as required by DSHS.
- 9 Follow up medical exams conducted as needed.

URINE COLLECTION PROCEDURES

Persons who collect urine samples should be trained in the proper collection procedures and maintain sensitivity towards the child's situation.

- 1 For urine collection from an infant, place four 4 X 4 gauze pads in the diaper. Remove when wet and place in clean leak proof urine container. Cover, label, and seal in a biohazard container.
- 2 For urine collection from a child who is potty trained but too young to use a urine collection cup, use a clean urine collection "hat." Place the hat in the toilet and have the child urinate into the collection hat. Transfer the urine to a clean leak proof urine container. Cover, label, and seal in a biohazard container.
- 3 For older child and adolescent, give the clean urine collection cup to the child and instruct them to urinate into the cup. Cover, label, and seal in a biohazard container.

HAIR SAMPLES

At this time it is recommended not to collect hair samples. Additional research is underway to determine the need for this practice. If DEC teams decide to take hair samples, contact Ann Marie Gordon at ann.gordon@wsp.wa.gov to arrange for training in collection procedures.

Prosecutor Response | Procedure

- 1 Review evidence collected by:
 - a. Law Enforcement
 - b. Medical
 - c. Child Protective Services
 - d. Local Health Officer
- 2 Reference appropriate laws.
- 3 Determine appropriate actions to take that are in the best interest of the child.

Prosecutors review evidence collected during the multidisciplinary investigation to determine if child endangerment charges should be filed. Washington State statutes empower law enforcement agencies and Washington State Department of Social and Health Services to respond to incidences involving the manufacture of illegal drugs, or where there is evidence of severe neglect or injury to a child. Numerous statutes provide guidance for the care, treatment, protection, and placement of the drug-endangered child. Counties should become familiar with the laws and seek the advice of local prosecutors. An overview of the primary Washington State laws addressing the child's needs, and that ensure prosecution of offenders is included on the following pages.

Review of Laws Applicable to Drug Endangered Children in Washington State

RCW 26.44.050

Abuse or Neglect of Child

Addresses the duties of law enforcement agencies and the Department of Social and Health Services (DSHS) pertaining to taking a child who is abused or neglected into custody. The statute mandates law enforcement or DSHS to investigate all reported cases and provide CPS with a copy of the report and where necessary refer the matter to the appropriate court of jurisdiction. Paragraph 2 grants authority to law enforcement agencies to take children into emergency custody without a court order when there is probable cause to believe they are abused or neglected and could be further injured if not removed. The statute also allows law enforcement agencies or DSHS to photograph children for evidentiary purposes.

RCW 26.44.056

Protection, Detention or Custody of Abused Child

Provides authority to hospital administrators or administrators of similar institutions and licensed physicians to detain a child without the consent of a legally responsible party, whether or not medical treatment is required, if it is their belief returning same would constitute an imminent danger to the child. The above parties are required to notify law enforcement or CPS as soon as possible but no longer than seventy-two hours. CPS may detain the child until the court of jurisdiction assumes custody but are also limited to a maximum of seventy-two hours excluding Saturdays, Sundays or Holidays. Subsection (2) of the statute requires law enforcement to turn the minor over to CPS. Subsection (3) holds law enforcement, administrators, physicians and CPS workers not liable in any civil action if the child's removal was done in good faith.

RCW 26.44.200

Methamphetamine Manufacture – Presence of Children

A law enforcement agency in the course of investigating: (1) An allegation under RCW 69.50.401(a) relating to manufacture of methamphetamine; or (2) an allegation under RCW 69.50.550 relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudo ephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department (CPS) immediately.

RCW 13.34.060 (1) (b)

Shelter Care – Placement

Allows the "supervising agency" to authorize an evaluation of the child's physical or emotional condition to include routine medical and dental exams and all necessary emergency care. ¹

RCW 9A.42.100

Endangerment with a Controlled Substance

States that a person is guilty of endangerment with a controlled substance if they knowingly or intentionally permit a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine, ephedrine, pseudo-ephedrine or anhydrous ammonia, that is being used to manufacture methamphetamine (Class B felony).

RCW 9.94A.605

Methamphetamine – Manufacturing with Child on Premises — Special Allegation

Provides in subsection (1) that if a defendant has been convicted of (a) manufacture of a controlled substance under RCW 69.50.401 (a) relating to methamphetamine or (b) possession of ephedrine or any of its salts or isomers, pseudo-ephedrine or any of its salts or isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, as defined in RCW 69.50.440 and (2) there has been a special allegation pleaded and proven beyond a reasonable doubt the defendant committed the crime when a person under the age of eighteen was present in or upon the premises of manufacture; the court shall make a finding of fact of the special allegation, or if a jury trial occurs, the jury shall, if it finds the defendant guilty, also find a special verdict as to the special allegation.

RCW 9.94A.533 (6)

Adjustments to Standard Sentences

Provides for the addition of twenty-four months to the standard sentencing range for any ranked offense involving a violation of chapter 69.50 RCW (Uniform Controlled Substances Act) if the offense was also a violation of RCW 69.50.435 (Drug offenses in public places) or RCW 9.94A.605. (See above).

¹ In RCW 26.44.056 (2), law enforcement is directed to turn endangered children taken into their custody over to CPS who assumes the role for overseeing medical and psychological care and placement. Legal opinions differ as to how far law enforcement can go in seeking treatment for endangered children but a common sense analysis of Washington Law would allow for emergency care with further treatment sought by CPS. In no instance do the statutes allow or direct law enforcement to collect biological specimens for evidentiary purposes. Law enforcement should seek the counsel of their prosecutor regarding the issue of securing the authority of a warrant for obtaining them. If situations require the responding officer to collect biological specimens, the child's welfare should be the guiding standard, with specially trained officers or medical personnel obtaining them in a sensitive manner to minimize trauma.

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Further information on and
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www1.dshs.wa.gov/ca/WeCare.asp

